

BENJAMIN B. WAGNER  
United States Attorney  
PHILIP A. FERRARI  
Assistant U.S. Attorney  
501 "I" Street, Suite 10-100  
Sacramento, California 95814  
Telephone: (916) 554-2744

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA	)	CR. NO. S-10-0223 JAM
	)	
Plaintiff,	)	GOVERNMENT'S REQUEST FOR WRITTEN
	)	ORDER DENYING DEFENDANT SEAN
v.	)	GJERDE'S MOTION TO SEVER; ORDER
	)	
SEAN GJERDE,	)	
	)	
Defendant.	)	
_____	)	

On January 11, 2011, the above-referenced matter came on before the Court for a hearing on Defendant Sean Gjerde's Motion to Sever (Docket, # 119). Counsel for Defendant Gjerde was not present. During the course of the hearing, the Court announced that the Motion to Sever was denied. Docket, # 123. The government respectfully requests the Court consider issuing an Order identifying the grounds for the denial of the motion.

To the extent the Court relied upon the facts and arguments set forth in the government's opposition to the motion (Docket, # 120), the government submits the attached proposed Order. If there were different or additional grounds, the government

1 requests the matter be placed on the Court's calendar so that the  
2 Court's reasoning may be placed on the record. The undersigned  
3 regrets the inconvenience caused by not raising this issue during  
4 the January 11 hearing.

5  
6 Dated: February 1, 2011

Respectfully submitted,

7 BENJAMIN B. WAGNER  
8 United States Attorney

9 By: /s/ Philip A. Ferrari  
10 PHILIP A. FERRARI  
11 Assistant U.S. Attorney  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	CR. No. S-10-0223 JAM
	)	
Plaintiff,	)	ORDER ON DEFENDANT SEAN
	)	GJERDE'S MOTION TO SEVER
v.	)	
	)	
SEAN GJERDE,	)	
	)	
Defendant.	)	
_____	)	

The above-referenced case came on before the Court on January 11, 2011, for a hearing on Defendant Sean Gjerde's Motion to Sever (Docket, # 119). The United States was represented by AUSA Philip Ferrari. Counsel for Gjerde was not present. During the course of the hearing, the Court ruled that the Motion to Sever was denied. Docket, # 123.

By this Order, the Court sets forth its reasons for denying the motion. In short, the motion is denied for the reasons set forth in the opposition to the motion filed by the United States (Docket, # 120). The Court finds defendant Gjerde and his co-defendants are properly joined under Rule 8 in the pending

1 Indictment. The defendant has not made a sufficient showing to  
2 overcome the expressed preference in Federal Courts that  
3 defendants properly charged together be tried together. Zafiro  
4 v. United States, 506 U.S. 534, 537 (1993). Specifically, the  
5 defendant has not established a violation of his right to a  
6 speedy trial under either the Speedy Trial Act or the Sixth  
7 Amendment. His concerns about the possibility of a future  
8 violation of this right are not sufficient to warrant severance,  
9 at this time.

10  
11 **IT IS SO ORDERED.**

12 DATED: 2/3/2011

/s/ John A. Mendez  
HON. JOHN A. MENDEZ  
UNITED STATES DISTRICT JUDGE